

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
Civil Action No. 08-1294

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In Regard to the Matter of:

Bayside State Prison  
Litigation

LEROY JONES

-vs-

WILLIAM H. FAUVER, et al,

Defendants.  
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AT 0130  
WILLIAM T. WALSH M  
CLERK  
OPINION/REPORT  
OF THE  
SPECIAL MASTER

\* \* \* \* \*  
TUESDAY, NOVEMBER 18, 2008  
\* \* \* \* \*

BEFORE THE HONORABLE JOHN W. BISSELL, SPECIAL MASTER

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Transcript of proceedings in the above  
matter taken by Theresa O. Mastroianni, Certified  
Court Reporter, license number 30X100085700, and  
Notary Public of the State of New Jersey at the  
United States District Court House, One Gerry Plaza,  
Camden, New Jersey, 08102, commencing at 2:05 PM.

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**A P P E A R A N C E S:**

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ATTORNEYS FOR THE DEFENDANTS

1 JUDGE BISSELL: I'm now reopening  
2 proceedings in the case of LeRoy Jones, Junior.  
3 Docket number 08-1294.

4 This opinion/report is being issued  
5 pursuant to the directives of Order of Reference to a  
6 Special Master and the Special Master's Agreement and  
7 the guiding principles of law which underlie this  
8 decision to be applied to the facts upon which it is  
9 based as set forth in the jury instructions in the  
10 Walker and Mejias jury charges to the extent  
11 applicable to the allegations of Mr. Jones.

12 As finalized after review under Local  
13 Civil Rule 52.1, this transcript will constitute the  
14 written report required under paragraph seven of the  
15 Order of Reference to a Special Master.

16 Mr. Jones' is a case where, considering  
17 the evidence as a whole, it just does not establish a  
18 readily discernible picture of what might have  
19 occurred to him. This is really, truly a case  
20 of failure to discharge the burden of proof.

21 Mr. Jones was in the tents. The  
22 description of the events which transpired that  
23 allegedly affected him including an alleged assault  
24 and injury upon him, as found at pages 86 through 92  
25 of the transcript of October 1, 2008, sounds like a

1 classical description of the activities of a SOG  
2 unit. "Turn to face the wall", "face in the pillow",  
3 lots of noise, lots of banging around, rough  
4 treatment at the hands of the SOGs in the area in  
5 question, pulled out on the platform floor in the  
6 tent area which is what their flooring was and the  
7 like.

8 And to his credit, however, he did  
9 indicate that he wasn't sure whether these were SOG  
10 officers or not who came in there.

11 Now, the tent area, often called PRU,  
12 is basically a transition area where inmates come in  
13 and are kept there briefly before their assignment to  
14 other units, usually to either one of the units  
15 themselves as it's sometimes been called "behind the  
16 wall" or to a trailer, also pretty much a medium  
17 security facility.

18 We've had evidence throughout here of  
19 the fact that SOG officers went to the tents and,  
20 indeed, occasionally cleared the tents for purposes  
21 of inspection, as best I can recall. However, in  
22 this case, Mr. Jones didn't even arrive at Bayside  
23 Prison until the 23rd of September, 1997. The  
24 lockdown was over, the SOG officers had gone. The  
25 tent area is an open area. The level of security and

1 the ability to control inmates on the unit if  
2 problems arise is not particularly high. With some  
3 rare exceptions, I have found it unlikely that  
4 corrections officers assigned to Bayside, those who  
5 presumably would continue their assignments in the  
6 tent area, would perpetrate these types of attacks on  
7 either Mr. Jones or others in the tent population.  
8 They have no reason to deliver a message as to who is  
9 boss because the people in those tents aren't going  
10 to be in that area for very long. Furthermore, they  
11 have every incentive to keep things under reasonable  
12 control and in a non-confrontational non-antagonistic  
13 mode. And that certainly isn't promoted by this type  
14 of activity, at least as Mr. Jones described it.

15           There are also other areas of  
16 inconsistency and lack of specifics in his  
17 recollection including problems about the time frame  
18 involved. Essentially what he has done here is  
19 transport what might have been considered a SOG-like  
20 activity regarding the entry into the tents in this  
21 fashion over to a time period when they couldn't have  
22 been there. Moreover, I find that he's failed to  
23 establish that Unit corrections officers assigned to  
24 Bayside either did or would have acted in this way.

25           Finally, although not every item of

1 evidence has been discussed in this opinion/report,  
2 all evidence presented to the Special Master was  
3 reviewed and considered.

4 For the reasons set forth above, I  
5 recommend in this report that the district court  
6 enter an order and judgment of no cause for action  
7 with regard to LeRoy Jones.

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## 1 C E R T I F I C A T E

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3 I, Theresa O. Mastroianni, a Notary Public and  
4 Certified Shorthand Reporter of the State of New  
5 Jersey, do hereby certify that the foregoing is a  
6 true and accurate transcript of the testimony as  
7 taken stenographically by and before me at the time,  
8 place, and on the date hercinbefore set forth.

9 I DO FURTHER CERTIFY that I am neither a  
10 relative nor employee nor attorney nor counsel of any  
11 of the parties to this action, and that I am neither  
12 a relative nor employee of such attorney or counsel,  
13 and that I am not financially interested in the  
14 action.

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Theresa O. Mastroianni  
Theresa O. Mastroianni, C.S.R.  
Notary Public, State of New Jersey  
My Commission Expires May 5, 2010  
Certificate No. XI0857  
Date: November 18, 2008